



Ms Kris Pendna, aged 45, is the single mother of five children: Kim, who is 19, Khloe, who is 17, Kourtney, who is 14, Kylie, who is 12, and Kendall who is 11. The family live at 9 Beverly Avenue, Katoomba, NSW 2780 with their house maid, Malika.

Mr Robert Bardashiani is the father of Kim, Khloe, and Kourtney and lives with his girlfriend, Amber Bird at 31 Grounds Street, Alexandria, NSW 2015.

In early January 2018, Kim was selected for an elite athlete program located in Central Coast of NSW. On 23 July 2018, Kim started attending boarding school.

The percentage of care affects the amount of child support Robert is required to pay. There is a dispute between Robert and Kris as to the amount of child support Robert was required to pay for Kim while she attended boarding school.

Kim was in boarding school in the following time periods:

- a. 23 July 2018 to 28 September 2018;
- b. 15 October 2018 to 21 December 2018;
- c. 29 January 2019 to 12 April 2019.
- d. 30 April 2019 to 5 July 2019; and
- e. 23 July 2019 to 27 September 2019.

From 19 September 2016, Kim was recorded as being in the 80% care of her mother.

From 19 September 2016, Kim was recorded as being in the 20% care of her father.

On 2 December 2018, Robert contacted the Child Support Agency to advise that her mother did not have 80% care from 23 July 2018 because Kim was in boarding school. He argued

that on the basis of total financial support he provided for Kim, and the amount of time Kim spent with both her parents when she was not at school, that the care from 23 July 2018 was actually 65% to him, and 35% to Kris. A delegate of the Registrar agreed that care had changed but not to the extent reported by Robert, and on 1 February 2019 found that the care of Kim from 23 July 2018 was 50% to each parent.

Kim has been in a relationship with Pete Javedson since 24 October 2019 and has been living with him since 2 March 2020. Kim turned 18 on 7 July 2021 and her child support case would have ordinarily ended at that date however another care decision was made on 5 March 2020 that the care of both parents was 0% and therefore the child support assessment was terminated from 2 March 2020. That care decision is not disputed and is not the subject of review.

On 10 July 2020, after the child support case had ended, Kris objected to the care decision made on 1 February 2019 that each parent had 50% care from 23 July 2018. On 28 November 2020, an objections officer allowed the objection and determined that while the care had changed when Kim went to boarding school, the percentages should have been 68% to Kris and 32% to Robert. However, because Kris did not object within 28 days of receiving notice of the 1 February 2019 decision, and the objections officer found there were no special circumstances preventing her from objecting in that time, the objection decision could only apply from the date that Kris objected on 10 July 2020. This meant that the objection decision had no effect on the actual assessment. The objection decision about the care percentages and the date of effect was communicated to both parents in letters via their online MyGov portal.

On 5 December 2020 Robert lodged an appeal to the care decision with the Administrative Appeals Tribunal, because even though the objection decision in favour of Kris had not been backdated, he still felt that he should have had at least 65% care recognised from 23 July 2018. On 6 June 2021, AAT1 affirmed the decision under review. The AAT1 did not consider

what date of effect their decision should have as Robert had not raised the date of effect decision in his request for review.

On 2 July 2021, Kris lodged this appeal to the Tribunal disputing the AAT1 decision on the basis that she still had 80% care of Kim when she went to boarding school, and in any event, even if the care decision made by the objections officer (and affirmed by AAT1) was correct, she did not agree with the date of effect decision made by the objections officer.

AAT2 are holding an interlocutory hearing to determine whether the tribunal has jurisdiction at the second tier of review to consider Kris' application for review of the date of effect decision, prior to hearing the substantive care percentage matter.

*Although the issues raised in this scenario may be based on those found in real cases, all characters and other events referenced in this scenario are fictional.*